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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,940	10/17/2001	Sung-Koog Oh	5000-1-221	6290
33942	7590	04/04/2005	EXAMINER	
CHA & REITER, LLC 210 ROUTE 4 EAST STE 103 PARAMUS, NJ 07652			HOFFMANN, JOHN M	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 31

09/981,940

Applicant(s)

OH ET AL.

Examiner

John Hoffmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Examiner could find no support for the newly claimed gas feeder (claim 13, line 8) – either explicit or implicit. This is deemed to be a prima facie showing on failure to comply with the requirement. The burden is now on Applicant to show the requirement is complied with, or to amend the claims so that they comply.

Examiner realizes that an argument could be made there is implicit support for a feeder, because the gas is fed (see page 12, line 15 for instance). However, this is insufficient because the claim is limited to a particular feeder: a feeder feeds from the respective position(s) to the passageway(s). That line 15 indicates that gas is fed “to...the cooling unit “ would suggest that the feeder feeds from an external source, not from the position(s).

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Still further there is no support for "one or more respective positions axially around the upper gas feeding section". At a minimum, there must be two positions for them to be "around" the section. Figure 8 reasonably shows four positions that are "around". But if three were taken away, then the remaining position would be off set from the axis.

Furthermore, even if there is support for all of the things mentioned above, there doesn't seem to be support for the particular scope of the feeder being for "one or more respective positions" and "at least one passageway". Using figure 8 as an example: Examiner sees that it is possible to use one feeder that goes to all 4 ports, 4 feeders (one for each port) or 2 feeders (one for a pair of ports). There is no basis for the present scope that appears to cover all of those possible configurations. There is nothing that shows that any or all of them is what applicant had possession of at the time of the invention.

As to claims 26-27: Applicant argues that these claims are allowable for the same reason that claim 13 is are. Thus it is deemed that claims 26 and 27 claim the same thing as claim 13. Since claim 13 is of a scope fails to comply with the written description requirement , it is deemed that claims 26 and 27 are also of a scope that lack support.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

See Allen Eng'g Corp. V. Bartell Indus. Inc. 299 F.3d 1336, 1348, 63 USPQ2d 1769, 1775 (Fed. Cir. 2002) (quoting Personalized Media Communications, LLC v. Int'l Trade Comm'n, 161 F.3d 696, 705, 48 USPQ2d 1880, 1888 (Fed. Cir. 1998)) ("In determining whether the claim is sufficiently definite, we must analyze whether "one skilled in the art would understand the bounds of the claim when read in light of the specification.") See also, Exxon Research & Eng'g Co. v. United States, 265 F.3d 1371, 1375, 60 USPQ2d 1272, 1276 (Fed. Cir. 2001) (citation omitted) (patent claims must be "sufficiently precise to permit a potential competitor to determine whether or not he is infringing").

It is unclear what is meant by the newly claimed "feeder". Specifically, Examiner cannot tell if it includes, excludes, or is limited to any/all of the following: the "switch" of page 8, line 19, the port(s), the flow regulator (page 12, line 16), the controlling computer (page 12, line 16).

It is not understood what is meant by "axially around".

As to claims 26-27: Applicant argues that these claims are allowable for the same reason that claim 13 is. Thus it is deemed that claims 26 and 27 claim the same thing as claim 13. Since claim 13 is of a scope that is indefinite, it is deemed that claims 26 and 27 are also of a scope that is indefinite.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The gas feeder, and the one or more respective positions “axially around” the feeding section must be mentioned in the specification. One of ordinary skill needs to be able to turn to the specification to see what the claims are directed to; the terminology in both should be identical.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Paek 4578098.

Feature 32 is the main body. 36 is the upper gas feeding section that is over the lower end of the main body. The slits an inner surface are clearly present – the rest of the limitations are substantially intended use limitations that fail to define a structure that reads over Paek.

Response to Arguments

Applicant's arguments filed 11 march 2005 have been fully considered but they are not persuasive.

It is argued that there is support for claim 13 in the specification: the arguments point to specific passages. Examiner studied those passages (and again reviewed the entire disclosure) and still could find no mention of any "feeder" in any of those passages – or any other portion of the disclosure. The arguments fail to point out how those passages provide the support. Although Applicant points to a "gas feed" there is nothing which explains the relevance. Examiner is uncertain as to whether the gas feed is suppose to be the gas feeder, or if inherently requires that there be a gas feeder, or what Applicant's position is. Furthermore it is noted that Applicant does not even identify what the feeder is or is not. Applicant only alledges that one of ordinary skill would find support. Applicant's (apparently unsupported) allegations is insufficient to show that the written description requirement is complied with.

It is further argued that the language of claim 13 would have been clear, even without reference to the specification and drawings. Again, this is a conclusion with no argument, rationale or evidence to support it. The rejection sets forth why the rejections under 35 USC 112 were made – but there does not seem to be anything which attempts to point out how or why the Offices rationale is improper.

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It is also argued the Office confused two concepts of A) claiming broadly, and B) claiming without support. First, Examiner could see no basis for concluding there was any confusion; the arguments don't explain how this conclusion was reached. More importantly, the relevance of this (even if it is true) is not pointed out.

Similarly it is alleged that "feeder" and "axially around" would be understandable to one of ordinary skill. However since there is no explanation or argument supporting this conclusion, since there is indication what the terms mean, since Applicant failed to point out any specific error in the Office's determination, and since there is no argument which addresses the Office's rationale for determining that the claims were indefinite, the Office has no basis whatsoever for withdrawing the rejection.

As to the objection of the specification: again applicant merely concludes that there is antecedent basis in the specification for the language in question. However there is no indication as to where the antecedent basis is.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

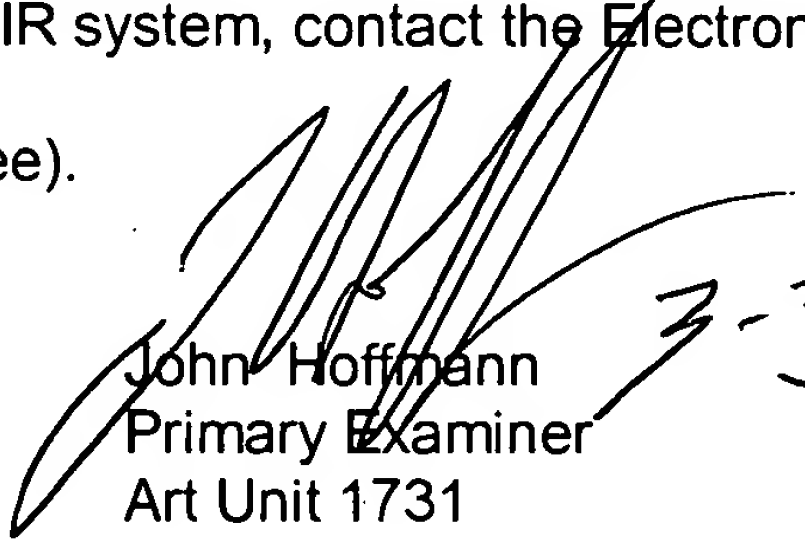
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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is (571) 272 1191. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John Hoffmann
Primary Examiner
Art Unit 1731

3-31-05

jmh